

DBMLSERS

Sentence

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 UNITED STATES OF AMERICA,

4 v.

12 CR 90 (AKH)

5 KAREEM SERAGELDIN,

6 Defendant.

7 -----x

8 New York, N.Y.
9 November 22, 2013
11:42 a.m.

10 Before:

11 HON. ALVIN K. HELLERSTEIN,

12 District Judge

13
14 APPEARANCES

15 PREET BHARARA

United States Attorney for the
Southern District of New York

16 EUGENE E. INGOGLIA

17 Assistant United States Attorney

18 KOBRE & KIM LLP

Attorneys for Defendant

19 BY: SEAN P. CASEY

MICHAEL S. KIM

20 SCOTT McCULLOCH

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1 (Case called)

2 THE COURT: So you read the presentence investigative
3 report, Mr. Serageldin?

4 THE DEFENDANT: I have, your Honor.

5 THE COURT: And discussed it with your counsel?

6 THE DEFENDANT: I have, your Honor.

7 THE COURT: Counsel, are there any errors that you
8 wish me to consider for correction?

9 MR. CASEY: No, your Honor. Our objections are
10 included in the addendum to the final PSR.

11 THE COURT: And they've been taken care of?

12 MR. CASEY: They have, your Honor.

13 THE COURT: So you're satisfied with the facts as set
14 out in the report?

15 MR. CASEY: We are, your Honor.

16 THE COURT: And is the government?

17 MR. INGOGLIA: We are, Judge.

18 THE COURT: I find the facts as set out in the
19 investigative report.

20 Mr. Serageldin pleaded before me on April 12, 2013.
21 His plea of guilty contained a discussion of the sentencing
22 guidelines, and I find them to be the same as that which was
23 agreed.

24 The offense is analyzed under Section 2B1.1 with a
25 base level of six. The extent of loss is considered to be

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1 between two and a half million dollars and \$7 million, which
2 yields an upward adjustment of 18. Mr. Serageldin was the
3 leader and organizer of more than five people. Under Section
4 3B1.1, another four levels are upwardly adjusted. This makes
5 the gross offense level to be 28. Three levels are reduced for
6 acceptance of responsibility in a timely basis, and the net
7 offense behavior level is 25.

8 Do I have it right, Mr. Ingoglia?

9 MR. INGOGLIA: You do, Judge.

10 THE COURT: Mr. Casey?

11 MR. CASEY: You do, your Honor. Thank you.

12 THE COURT: Mr. Serageldin has no criminal history
13 points.

14 So under net offense behavior level of 25, criminal
15 history category I, the range of custodian punishment provided
16 by the sentencing guidelines is 57 months at the lowest end,
17 and because the crime is subject to a five-year statutory
18 maximum, 60 months is the upward end, 57 to 60 months.

19 Supervised release is two to three years.

20 Do I have that right, Mr. Ingoglia? I don't have it
21 in my notes, but I think that's what it is.

22 MR. INGOGLIA: Three years is the maximum. I believe
23 that's right, Judge.

24 MR. CASEY: Actually, your Honor, it's one to three
25 years.

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1 THE COURT: One to three years.

2 MR. CASEY: Yes.

3 THE COURT: Yes, that's right.

4 MR. CASEY: The guideline recommendation.

5 THE COURT: Yes. So the guidelines speak to a range
6 of custodial punishment of 57 to 60 months' custody, followed
7 by one to three years of supervised release.

8 The guideline range for a fine is from \$10,000 to
9 \$100,000. The statutory maximum is \$250,000.

10 Is that right?

11 MR. INGOGLIA: That is right, Judge.

12 THE COURT: Mr. Casey?

13 MR. CASEY: Yes, your Honor, that's correct.

14 THE COURT: Okay. So Mr. Serageldin committed his
15 crime posted in London for Credit Suisse. He was the head of a
16 trading department of Credit Suisse and his crime is described
17 in the presentence investigative report and I'm sure we'll be
18 discussing it.

19 Without my further comment, let me turn it over
20 Mr. Casey.

21 MR. KIM: With your Honor's permission, Mr. Casey and
22 I addressed different points that we want to advance to the
23 Court.

24 THE COURT: I'll let you both speak.

25 MR. KIM: Yes. Thank you.

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1 THE COURT: I have a very extensive submission. But
2 it's my practice, Mr. Kim, to allow counsel to tell me anything
3 that they wish to tell me. My interest is to make sure that
4 everything that defense counsel and government counsel think I
5 should consider in sentencing is told to me and you're sure
6 that I have grasped it.

7 MR. KIM: Yes, your Honor. And I know your Honor's
8 practice is to read all the materials carefully, so I will not
9 repeat.

10 THE COURT: You can.

11 MR. KIM: I will try to focus.

12 THE COURT: Don't feel constrained.

13 MR. KIM: Yes, your Honor.

14 THE COURT: Tell me what you want to tell me.

15 MR. KIM: Your Honor, I think I want to mainly focus
16 my observations on the characteristics of Mr. Serageldin and
17 the context in which the crime occurred because I think they
18 are important factors for the Court's decision process.

19 I think in addition to some of the other points that
20 Mr. Casey will explain to you, I think there are at least two
21 unusual aspects to the case before you in the area of the
22 characteristics of the defendant and the context in which the
23 crime occurred.

24 I think first the context and motivation for the crime
25 and when it occurred and how it occurred, I know your Honor has

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1 handled a number of different cases coming out of the financial
2 crisis and, over the years, white collar criminal cases. And
3 at least in my experience the cases involving the mismarking of
4 assets on books follow one of a few different patterns.

5 Sometimes you have a trader who is mounting ever
6 greater losses and in an attempt to cover that up to preserve
7 one's compensation based on the profit loss numbers, and then
8 sometimes to try to advance a picture of profitability, there's
9 mismarking going on at a scale where there's a false picture
10 presented to the supervisors to try to earn money and to try to
11 conceal losses that that trader caused. And I'm sure your
12 Honor has seen cases that fit into that fact pattern.

13 Sometimes there are cases where the persons on the
14 trading desk try to affect specific positions because it's
15 heavily tied so some big pay-out that they're trying to achieve
16 by virtue of their trading.

17 Now, I think what's a little unusual about this case
18 is that while the actual conduct, the actual physical acts are
19 very similar to those other cases in the sense of positions
20 were mismarked, the context in which it occurred I think really
21 bears note. You have a person who I think really at the very
22 young age of 33 was given a tremendous amount of responsibility
23 in a very complex organization. And you also have a person who
24 just -- I'm sure your Honor has looked at Mr. Serageldin's
25 history -- from an immigrant family, who's worked tremendously

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1 hard to get to where he was at that young age.

2 The unusual aspect is that Mr. Serageldin essentially
3 discovers that mismarking had already been going on. And the
4 mismarking itself by really I think most reasonable views has
5 no real material effect on Mr. Serageldin's financial fortunes
6 in the bank except --

7 THE COURT: How do we know that?

8 MR. KIM: Your Honor, I think the actual scope of
9 Mr. Serageldin's responsibilities as set out in our submission
10 and the way that his compensation was overall calculated means
11 that the primary motivation of Mr. Serageldin here was really a
12 terrible misjudgment to avoid embarrassment.

13 THE COURT: You know, I've read that. It's hard to
14 separate the different permutations of hubris. A person rises
15 to a certain level with certain responsibility and gets certain
16 emoluments from it and there's a mixture of money, pride,
17 ambition, placement in an organization, and so many other
18 different factors, but they all run together. If you do well,
19 you get paid more.

20 In the business that Mr. Serageldin was in, salary
21 tends to be relatively minor in the range of compensation a
22 person looks for. Bonus is very important. Participation in
23 equity is very important.

24 So it's hard for me to accept that Mr. Serageldin did
25 not at least harbor the thought that if he showed a profit,

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1 he'd be better able to get a decent bonus -- more than decent,
2 good bonus.

3 MR. KIM: Your Honor, what I think is the most
4 important point there is the circumstances under which
5 Mr. Serageldin did --

6 THE COURT: I just add to that, what do we work for,
7 Mr. Kim, you, me, others -- we want to be the best we can be.
8 We want to be the very best we can be in our profession, and we
9 want to do the best job we can for our client. Are we looking
10 essentially for money? In a way, yes, but primarily no. I
11 think if we were paid less, we'd work just as hard and do just
12 as well, and that's proved by all my colleagues on this court.

13 MR. KIM: Yes, your Honor.

14 THE COURT: So money is a factor, but, and I think
15 that's what you mean when you say that Mr. Serageldin was not
16 driven by money. He may have been wanting the money, it may
17 have come with him, but he would probably do the same thing if
18 there were less money.

19 MR. KIM: Yes, your Honor. I think in terms of
20 assessing --

21 THE COURT: Maybe. Who knows, who knows.

22 MR. KIM: I think in terms of assessing an
23 individual's character, that is not to say that his conduct is
24 excusable in any way because obviously he's pled guilty to it,
25 and as your Honor can see from our submission, that's not the

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1 point of our submission.

2 Rather, in assessing a person's character, I think
3 there's a significant difference between a person who is
4 mismarking positions or putting in fraudulent statements
5 because they think it will advantage them and they do so as
6 part of a calculated strategy, whereas here --

7 THE COURT: Would you mind if I interrupted.

8 MR. KIM: Yes, your Honor. It's your courtroom, so
9 you can interrupt me any time you want.

10 THE COURT: I think it's not only for the point of
11 being a prerogative of the judge -- it may not be, but I do
12 it -- I think you need to know my mind and I read your material
13 so I've given it a lot of thought, a lot of thought.

14 Mr. Serageldin is like you or me, got a family, we do
15 our job. We do our job as best we can, work very hard. But
16 there's this essential difference: He was in a place where
17 there was a climate that made it conducive to what he did. The
18 bank was, as you call it, mismarking, but showing false profits
19 much more extensively than Mr. Serageldin was doing.

20 Mr. Serageldin's role was a small piece of an overall evil
21 climate within the bank and with many other banks.

22 But I can't get past the point that he was a leader,
23 and when things are run around you, there's no necessity for
24 the leader to follow suit. Someone has got to stand up for
25 what's right. And when he doesn't stand up for what's right,

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1 when a person doesn't do what's right and starts doing criminal
2 things, he's a criminal.

3 MR. KIM: Yes, your Honor, and would I not disagree
4 with any of those statements.

5 I think Mr. Serageldin's primary failure here,
6 criminal failure, was not standing up for what was right, even
7 though the conduct obviously lasted just a few months in an
8 otherwise very expansive career. He had accomplished and done
9 a lot in the short career, and the conduct itself was confined
10 in time. The nature of that conduct, as your Honor points out,
11 is that he was in a leadership position where he could have
12 stood up and stopped the conduct that was going on and that was
13 wrong. And I think just --

14 THE COURT: Maybe not stopped, but at least he didn't
15 have to participate in it.

16 MR. KIM: Yes, your Honor, I think on both of those
17 counts.

18 And just my simple point on this first area is that
19 while just as wrong, I think where one sees in the factual
20 context for a limited time he failed to stop it and allowed it
21 to go on and essentially functioned as the group leader while
22 it was going on, while it was wrong, it is different and a
23 little bit unusual in character from a lot of the other cases.

24 And I think secondly, your Honor, I think this goes
25 the comments your Honor just made, the amount of punishment

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1 that has been inflicted on Mr. Serageldin is truly unusual I
2 think primarily as a result of his being in the wrong place at
3 the wrong time. Because he is really by some counts the only
4 person that has been singled out in a criminal case for what
5 some people call the credit crisis, financial crisis, the media
6 has taken a disproportionate interest in him.

7 And as your Honor knows from some of the materials
8 submitted to you, but also just generally, the amount of
9 publicity around Mr. Serageldin and the nature of the
10 publicity -- I had started representing him from back when he
11 was in the U.K. -- on both sides of the pond, there's a great
12 amount of media that really portrays him as the primary
13 architect in many ways of the credit crisis and really a
14 significant villain in the story, which I think based on the
15 details of the situation as your Honor understands it is
16 disproportionate and inaccurate and unfair. But he's had to
17 live with the real consequences of that.

18 Yes, he's done something wrong and he deserves to be
19 punished and he is the first one to tell you that. But I think
20 the way that his name has really been portrayed in the media
21 over the last several years has absolutely destroyed what
22 semblance of self-respect and dignity he had and has destroyed
23 his relationships with many friends and family. And I think in
24 assessing the deterrence and punishment factors that your Honor
25 has to weigh, I think that is truly unusual and deserves some

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1 consideration.

2 THE COURT: Thank you, Mr. Kim.

3 MR. CASEY: Your Honor, I want to pick up on a couple
4 points that Mr. Kim left there. No. 1, in calculating the
5 right amount of punishment that is due here but not greater
6 than necessary, it strikes me as those punishments that Mr. Kim
7 was discussing need to be, need to be factored in or need to
8 reduce the amount of punishment, that is, that you're going to
9 give to Mr. Serageldin.

10 Mr. Kim discussed the press and I won't do that again,
11 but the real punishment that's already been levied on him is
12 when this happened, Credit Suisse took back \$25 million in
13 deferred compensation from Mr. Serageldin. Now, that number in
14 these trading cases when you see millions of dollars and
15 billions of dollars flying around, it's easy to lose to lose
16 perspective on what that means. But this is actually
17 25 million real dollars going to our client, a life-changing
18 amount.

19 THE COURT: This is the equity issue?

20 MR. CASEY: This is the -- yes, your Honor. This is
21 his deferred compensation. An important point of that is
22 \$20 million of that windfall back to Credit Suisse, \$20 million
23 of that was earned long before his conduct ever began. So this
24 is sort of the beginning of the punishment along with how he's
25 been portrayed in the press.

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1 THE COURT: Why should I consider that?

2 MR. CASEY: Well, your Honor, when you have to find a
3 sentence --

4 THE COURT: If someone commits or wants to commit a
5 financial crime and has to give money back, why does that
6 reduce the culpability for the crime?

7 MR. CASEY: Well, this is different than giving the
8 money back.

9 THE COURT: Why is it different?

10 MR. CASEY: Because \$20 million of this, the large
11 chunk of this, was earned by Mr. Serageldin years before this
12 conduct even started, years before the credit crisis. The
13 initial 20 million has nothing to do with his conduct. It just
14 had to do with the fact of his employment and the way Credit
15 Suisse's compensation regime is designed.

16 THE COURT: Why is it relevant?

17 MR. CASEY: Well, because, your Honor, our job here
18 today, the Court's job here today is to find a sentence that's
19 sufficient but not greater than necessary to meet the ends of
20 sentencing and to meet the ends of justice. And here you have
21 to look at what's already been -- what's on Mr. Serageldin's
22 shoulders. And here there's \$20 million on his shoulder,
23 there's an SEC settlement on his shoulder, there's a million
24 dollars in forfeiture on his shoulder. He's lost an ability to
25 work in his only profession, his chosen profession. And as

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1 Mr. Kim said, his face has been broadcast across the financial
2 press and will be again today is my estimation.

3 All those things together are something unique to him
4 that we don't see in every white collar case here. We don't
5 see numbers like that being taken away. We don't see the cover
6 of the Wall Street Journal on a regular basis portraying most
7 of the white collar defendants that come through this
8 courtroom.

9 The next point I want to discuss a little bit more
10 about the history and characteristics of Mr. Serageldin. I
11 just want to focus on one part and that part is the unusual
12 extent to which he accepted responsibility here. When this
13 investigation was going on -- and this investigation took many
14 years to complete -- by the SEC and by Department of Justice,
15 Mr. Serageldin was living abroad. He was living in London. He
16 was under no obligation whatsoever to make any contact with the
17 government, but he did. He was under no obligation to stay
18 even within the reach of the government, but he did. And when
19 this case became a reality --

20 THE COURT: Tell me what he did.

21 MR. CASEY: When the case -- he stayed in London. He
22 stayed in touch with the Department of Justice.

23 THE COURT: How did it happen, who initiated what?

24 MR. CASEY: Oh. He had previous counsel before Kobre
25 & Kim and they maintained communications. There was a couple

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1 interviews that Mr. Serageldin spoke.

2 THE COURT: Did Mr. Serageldin approach the Department
3 of Justice first or did the Department of Justice approach
4 Mr. Serageldin first?

5 MR. CASEY: Immediately upon being charged,
6 Mr. Serageldin hired Kobre & Kim to approach the Department of
7 Justice to arrange a plea agreement with the Department of
8 Justice and also to arrange a settlement with the SEC. That
9 was our primary task here.

10 With that, he did not fight extradition. He did not
11 fight the case. He announced quickly -- and I think the
12 government will support this -- he announced quickly his
13 intention to plead here, to save the government the trial, but
14 really to save the government extradition which, as the Court
15 knows, could have drawn this episode out for years and years
16 even from today. We could be five or more years from now
17 before this case would really come to a head.

18 THE COURT: Could also have been prosecuted in London.

19 MR. CASEY: Yes, your Honor, but our understanding is
20 the British regulators took a pass on this case. They viewed
21 the conduct here and they decided --

22 THE COURT: Probably because the Department of Justice
23 was interested.

24 MR. CASEY: I believe, your Honor, that's possibly a
25 factor, but it also took place before, from what I understand,

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1 but Mr. Ingoglia can probably shed some light on that fact.

2 I think the way he accepted responsibility here is
3 almost the model of how the government, how the Court would
4 want someone to behave just before and certainly after they
5 were charged by the government. And I understand he's awarded
6 some three points under the guidelines for that and that's
7 significant. But that's, if he was charged outside on that
8 street, he would have gotten those three points.

9 Mr. Serageldin gave up a lot here and what I'm trying to say
10 here --

11 THE COURT: The point you're making to me is that I
12 should, in finding a just punishment, take into consideration
13 the very large amount of rehabilitation that's already
14 occurred.

15 MR. CASEY: I think that's right, and what that shows
16 about this man's character and the person that he is, the
17 person he was before the crime and the person he was after the
18 crime. Except for that month or that six weeks of this crime,
19 we've seen nothing and I think the government will offer
20 nothing outside of the indictment that he's done wrong in his
21 life. He's led an otherwise very admirable life here.

22 THE COURT: Two children.

23 MR. CASEY: Your Honor --

24 THE COURT: Married how long?

25 MR. CASEY: He has three Godchildren, your Honor. He

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1 does not have any children. He's been with his partner for 14
2 years.

3 THE COURT: Okay.

4 MR. CASEY: I want to turn briefly to disparities,
5 3553(a)(6), and the need to avoid the unwarranted disparities
6 that could occur if Mr. Serageldin was given any substantial
7 period of incarceration. Obviously, the policy here is
8 extremely important. The policy is that the Court and the
9 courts across the United States will treat similarly situated
10 defendants in the same manner, similarly situated defendants,
11 but also similarly situated people that may engage in the same
12 conduct. We cited many of these in our brief, and I just want
13 to highlight two of these briefly for the Court.

14 First is a Judge Rakoff sentencing in *United States v.*
15 *Argo*. *Argo* is essentially a stock options backdating case from
16 a few years ago and that person also pled guilty to the same
17 charge that Mr. Serageldin pled guilty to. Ms. Argo was the
18 CFO of a public company. Her guidelines were 97 to 121 months,
19 and Judge Rakoff actually gave her six months. And I bring up
20 this case not just for the fact of the giant variance from the
21 guidelines, but really for the fact that the conduct here which
22 Mr. Serageldin pled guilty to and options backdating are
23 extremely similar.

24 Ms. Argo's job was to assess the value of certain
25 securities and put those onto the books and records of the

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1 corporation. Hers was actually much more compensation oriented
2 then ours, but this is essentially a mismarking of the value of
3 a certain level of securities. Obviously, there's distinctions
4 here, but it's very similar conduct.

5 One of the parts of Judge Rakoff's, of the sentencing
6 transcript that I wanted to bring to the Court's attention was
7 this, was that the court was persuaded and certainly credited
8 the argument that what was termed a slightly broader disparity
9 argument. The slightly broader disparity argument was, as your
10 Honor probably remembers, the stock options backdating scandal,
11 when it broke, there was a lot of investigations, there was a
12 lot of press, there was a lot of investigations within the
13 Department of Justice. I can attest to that at the time.

14 The end result though, your Honor, very few people
15 actually went to prison. There were hundreds of restatements.
16 Obviously, a lot of public companies engaged in this conduct,
17 but nobody really went to prison except for Ms. Argo for six
18 months and maybe six or seven other individuals.

19 When that happened, the court seemed to recognize that
20 a certain disparity had already occurred because if people are
21 out there not getting charged for the exact same conduct that
22 one person would be charged with, that's a situation where we
23 have an unwarranted disparity. I understand the government can
24 get up and say that's not the text in the statute and I would
25 agree with him. But that's the spirit of this and that's the

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1 spirit of trying to fashion a just sentence here, trying to
2 look at why a 34-year-old, middle managing director at a bank
3 is the only person charged with this type of conduct.

4 The fact that he may go to prison here today, the fact
5 that he may go to prison here today is a huge unwarranted
6 disparity to what the other people who likely were mismarking
7 portfolios across Wall Street and maybe, as your Honor
8 observed, within Credit Suisse.

9 THE COURT: It's hard for me to believe that the only
10 cooking of the books case is involving Mr. Serageldin.

11 MR. CASEY: The only cooking of the books case -- the
12 only case we can find resulting from the credit crisis, this is
13 the case that we see. If there are other ones in other
14 districts, that's possible.

15 THE COURT: There's so many cooking of the books.
16 I've had many of them.

17 MR. CASEY: Yes, your Honor. If you're talking about
18 accounting fraud or stock options backdating, certainly there
19 are numerous of those. But a criminal prosecution for
20 something that happened when the credit world sort of came down
21 around Mr. Serageldin's head --

22 THE COURT: I think if you narrow your definition to
23 such an extent that it makes it meaningless, you get what you
24 say. I can't accept that. What's the difference of inflating
25 assets to make out a more attractive IPO than inflating assets

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1 to post a better 10-K?

2 MR. CASEY: I agree with that, your Honor, and that's
3 why many of the disparity cases --

4 THE COURT: So why is Mr. Serageldin's case different
5 from so many others?

6 MR. CASEY: Because we see a national press call for
7 cases resulting from the credit crisis. You can find an
8 article once a month in the financial papers saying where are
9 the people that are prosecuted from this? How come there's
10 nobody senior prosecuted from this? And the fact -- I don't
11 know if that's true or not and I believe it to be true, but the
12 fact that Mr. Serageldin is one of only a few coming from late
13 2007, 2009 time period is regrettable.

14 THE COURT: It reminds me of five robbers complaining
15 that the sixth did not get caught.

16 MR. CASEY: Yeah, I agree, your Honor. But the
17 problem is --

18 THE COURT: Surely you have better arguments than
19 that.

20 MR. CASEY: Maybe I should move on. In this point,
21 Mr. Serageldin is the sixth robber. The other five seem to
22 have gotten away.

23 THE COURT: All right, Mr. Casey.

24 MR. CASEY: I've move on.

25 THE COURT: Persuade me, will you please.

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1 MR. CASEY: I will, your Honor, I will.

2 The other disparity case I want to bring to the
3 Court's attention is a different form of conduct.

4 THE COURT: I don't know what prompted Judge Rakoff to
5 give the stock optioner six months and not the guidelines or
6 much closer to the guidelines. Every case has essential
7 differences to it, so I don't know. And measuring the impact
8 of the frauds in stock options is different from measuring the
9 impact of the fraud with regard to inflating books. It's hard
10 to compare those two things.

11 MR. CASEY: All that we have, your Honor, is the
12 transcript.

13 THE COURT: We have Judge Chin's sentencing of Madoff,
14 which you'll argue is a much worse situation and I would agree.
15 It's very hard to do that kind of an equation.

16 MR. CASEY: To look at the disparity cases and find
17 ones that fit perfectly, I a hundred percent agree, your Honor.
18 What we're left with when we have to make the disparity
19 argument is to look at cases --

20 THE COURT: What's driving the guidelines here?

21 MR. CASEY: The guidelines are being driven by
22 something that doesn't seem to apply to the case.

23 THE COURT: Talk to me about that.

24 MR. CASEY: The compensation --

25 THE COURT: What's driving the guideline? How did the

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1 probation and the government calculate that there should be an
2 upward adjustment of -- what was it -- 18?

3 MR. CASEY: Your Honor, that's derived from the
4 compensation that, the intended compensation that
5 Mr. Serageldin --

6 THE COURT: How much would Mr. Serageldin have gotten
7 if he didn't inflate the assets?

8 MR. CASEY: He would have gotten the same amount of
9 money, your Honor.

10 THE COURT: So why don't you tell me about that.

11 MR. CASEY: He would have gotten the same amount of
12 money for a number of reasons. No. 1 is these little --

13 THE COURT: So there's three components. Salary would
14 have been the same. Right?

15 MR. CASEY: Right.

16 THE COURT: Equity?

17 MR. CASEY: Same.

18 THE COURT: Really?

19 MR. CASEY: Yeah, and I'll get to that in a second.
20 Three components: salary, cash bonus, and deferred
21 compensation. Salary is set.

22 THE COURT: That's a small amount, that's 279,000.

23 MR. CASEY: Correct. Under Credit Suisse's
24 compensation regime, the cash bonus is capped out at a certain
25 number and that number is what Mr. Serageldin received. If he

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1 would have received another call it --

2 THE COURT: Is there a discretionary element in the
3 bonus?

4 MR. CASEY: Of course, your Honor, but there's a
5 serious compensation regime in place. If Mr. Serageldin at the
6 time he spotted --

7 THE COURT: Suppose he had a loss. Would he have
8 gotten the cash bonus?

9 MR. CASEY: I understand what you're saying. Your
10 Honor, I think it's important to step back. If he had a loss
11 in what? Mr. Serageldin managed a massive number of books for
12 the bank, I think it was 30 of them.

13 THE COURT: There was a secular decline in the
14 securities that Mr. Serageldin was trading. It was experienced
15 all over the business.

16 MR. CASEY: Sure.

17 THE COURT: And at that particular point in time,
18 there was a question to what extent the loss might or might not
19 be realized. The loss was really not a loss. It was the
20 beginning of a trend. Mr. Serageldin's position made -- there
21 was a large subjective element in the valuation of stocks and
22 securities in the market each day. Nevertheless, there was an
23 inflation of assets.

24 So what would have happened if Mr. Serageldin's book
25 showed a loss rather than profit, would he have gotten the

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1 bonus? Probably not.

2 MR. CASEY: I submit, your Honor, respectfully, he
3 absolutely would have received the bonus, absolutely.

4 Mr. Serageldin --

5 THE COURT: Same amount?

6 MR. CASEY: Yes, without question, because --

7 THE COURT: Why did he plead to this?

8 MR. CASEY: I'm sorry, your Honor?

9 THE COURT: Why did he plead to this upward
10 adjustment?

11 MR. CASEY: Because there is a certain marking of a
12 portfolio that has to occur. And in this book, the ABN1 book,
13 was one of about 32 books.

14 THE COURT: I grant you that. But it's driven by
15 loss.

16 MR. CASEY: It is.

17 THE COURT: Intended loss to the bank.

18 MR. CASEY: Correct.

19 THE COURT: So it leads to me to believe because there
20 is a plea and agreement on this that everyone agreed that the
21 bank lost so much money.

22 MR. CASEY: There came a moment when Mr. Serageldin
23 looked at how his subordinates and the people he was
24 responsible for were marking the portfolio. For the most part,
25 they were marking it within an acceptable range. And then at

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1 the very, very end of the year, the end of the year he saw and
2 experienced that they had marked outside of the range, and he
3 saw that on the report that was circulated within the bank. He
4 looked at that report and on that report he saw that these were
5 mismarked. And that, your Honor, is why he pled guilty because
6 at that point, as Mr. Kim said, he could have stopped this.

7 THE COURT: There's two aspects to pleading guilty.
8 He pleaded guilty to the statutory offense.

9 MR. CASEY: Correct, your Honor.

10 THE COURT: But in the plea agreement, there's also an
11 agreement with regard to the intended loss or the foreseeable
12 loss.

13 MR. CASEY: Right.

14 THE COURT: And it's equated with his bonus.

15 MR. CASEY: Right.

16 THE COURT: The bonus drove that figure.

17 MR. CASEY: That's correct, your Honor.

18 THE COURT: Why did you agree?

19 MR. CASEY: No. 1, Mr. Serageldin wanted to accept
20 responsibility. No. 2, in this era with the guidelines still
21 in place and when you negotiate and when he wants to accept
22 responsibility, there are only a number of options left to him.

23 Now, obviously he could have done a couple different
24 things, but that he pled guilty to that number was because
25 that's the number that our world, that 2B1.1 suggests has to

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1 drive a case like this. That's not the law that governs you,
2 but that's where all the pleas are discussed in cases like
3 this. So you do your best.

4 THE COURT: I understand they're discussed, but why
5 did you agree?

6 MR. CASEY: Because he believed he violated the law
7 and he did not want to go to trial. He did not -- he thought
8 it would be better to save the government the cost and expense
9 of such a thing.

10 THE COURT: Doesn't the plea agreement state that you
11 agree that those are the guidelines?

12 MR. CASEY: We agree that those are the guidelines,
13 and every argument I'm making to you, to be clear, is under 18
14 U.S.C. 3553(a).

15 THE COURT: Yeah, you have to do that because you're
16 precluded from going back to the guidelines. So you can't help
17 me.

18 MR. CASEY: I can't help you on what question, your
19 Honor?

20 THE COURT: Why the intended loss should be where it
21 was.

22 MR. CASEY: The intended loss shouldn't be there. The
23 intended loss should mirror something closer to what the goal
24 of this conspiracy was, at least from my client's point of
25 view.

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1 THE COURT: The bank takes the position they lost the
2 amount they paid in bonus. They want it back in restitution.

3 MR. CASEY: I haven't seen those papers yet, your
4 Honor, but if they do, the couple things I think are very
5 important to keep in mind. No. 1 is Mr. Serageldin worked for
6 a year.

7 THE COURT: Do you agree they would be entitled to it?

8 MR. CASEY: No, your Honor. Mr. Serageldin worked on
9 a huge amount of responsibility at the bank. We would call
10 this less than 5 percent of his responsibilities, the ABN1
11 book. And then within that 5 percent of responsibilities, the
12 actual adjustments that are the center of this, there's an
13 extremely small amount of conduct.

14 And, again, I don't want to undercut the seriousness
15 of this crime and he accepts responsibility, your Honor. But
16 that the bank didn't get value for the massive and billions of
17 dollars that he made for the bank is frankly an unreasonable
18 argument that the bank would make.

19 THE COURT: Okay.

20 MR. CASEY: Your Honor, in closing, I just want to
21 touch on a couple points. I also have know Mr. Serageldin for
22 a long period of time. He is a good man. He is a man that
23 cares very much about others. He's the kind of person that
24 even today on the way down with whatever is about to happen to
25 him --

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1 THE COURT: There's a deepening mystery in my work:
2 Why do so many good people do bad things?

3 MR. CASEY: Your Honor, I think the case here is this
4 is people are under an intense amount of pressure. People sort
5 of have a view of themselves. They have a view of, you know,
6 I've been really successful academically. I've been really
7 successful professionally. And I'm confronted with failure for
8 the first time in my life and they make a mistake and that is
9 what happened here.

10 Now, this is a big mistake and this is a mistake that
11 lasted for more than a handful of weeks, but people make
12 mistakes. But what we're here for and what really the purpose
13 of 3553(a) is is to get an understanding of the whole person,
14 what Kareem was like before this happened, how he dealt with
15 this after it happened, and what he's going to be like going
16 forward.

17 And under 3553(a), your Honor, I feel like you do, and
18 I agree with your Honor, we have a very good person here, a
19 person who cares a lot about his family, his friends, person he
20 walks by in the street.

21 We saw a recommendation from probation and we believe
22 that is a step in the right direction here. Maybe not large
23 enough, but we think it's a step in the right direction. I
24 think and I hope, your Honor, through our papers you're seeing
25 you have a high quality person here, a flawed maybe one that

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1 made a mistake, but a flawed person but someone who is good,
2 who had strived to do well, who has happened people along the
3 way, a family man, a dedicated family man, and one that has
4 made a mistake.

5 But we don't want -- the press is going to define
6 Mr. Serageldin by that mistake. We don't define him by that
7 mistake.

8 THE COURT: Probation has recommended 36 months. Do
9 you think they have it right?

10 MR. CASEY: No, your Honor. I think they have a step
11 in the right direction, I do, but.

12 THE COURT: What do you think is right?

13 MR. CASEY: What do I think is right, I would be
14 persuaded in this case, your Honor, by the massive amount of
15 punishment he's received. I would.

16 THE COURT: Everybody who's found out receives that
17 punishment in one degree or another.

18 MR. CASEY: I'm sorry, your Honor?

19 THE COURT: Everyone who is found out in the crime
20 he's committed receives that punishment one way or another.

21 MR. CASEY: Thirty-six months?

22 THE COURT: No. Massive amount of punishment already
23 achieved.

24 MR. CASEY: Okay. We're going to have to disagree on
25 that, your Honor. What I would give, I would sentence him to

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1 no jail time or extremely nominal amount of jail time. And for
2 the deterrence factor here, I would point to what has happened
3 to him. In the government's papers they point to their
4 deterrence argument.

5 THE COURT: That's no deterrence.

6 MR. CASEY: What's that, your Honor?

7 THE COURT: You're found out on your crime, you give
8 up your criminal acts. You give up your criminal gain. That's
9 a deterrent?

10 MR. CASEY: No, your Honor, I'm not getting through.
11 The first \$20 million has nothing to do with his crime. I
12 actually argue --

13 THE COURT: That's not what the public ruling said.

14 MR. CASEY: I think, your Honor, as the government
15 writes in its brief, the people we want to deter are other Wall
16 Street professions like Mr. Serageldin who maybe would have to
17 make that decision tomorrow.

18 THE COURT: And how do you deter them?

19 MR. CASEY: How do you deter --

20 THE COURT: By saying if you're found out, you give up
21 what you got?

22 MR. CASEY: No, your Honor. I think you can easily
23 look at what happened to Mr. Serageldin's life since that day
24 and his life has been ruined in every single respect and
25 financially is one of them, but that's not even, that's not the

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1 big one. He's unemployable. He has lost face to his family.

2 THE COURT: History shows that every one of the people
3 who went on to Wall Street and did something wrong and came
4 back out of jail and did something again find something again.
5 So to argue that Mr. Serageldin's future is bleak now is a
6 misguided argument. It insults your client, it insults your
7 client's capability, and it insults your client's background.

8 Sure, he'll be punished and sure he'll have
9 repercussions and consequences. But to get me to believe that
10 he won't be able to get back on his feet again, I don't believe
11 it.

12 MR. CASEY: I agree with you, your Honor.

13 THE COURT: So why are you telling me that?

14 MR. CASEY: But not to the level of where he was.

15 THE COURT: Of course not. He committed a crime. He
16 committed a serious crime. Shouldn't he be punished?

17 MR. CASEY: He should, your Honor, and I believe he
18 has. And, your Honor, I believe if you needed to punish him,
19 there are other ways to punish him besides a 36-month --

20 THE COURT: Like what, community service?

21 MR. CASEY: Yes, your Honor, or a financial penalty.

22 THE COURT: That too. Okay. Thank you very much.

23 MR. CASEY: Thank you, your Honor.

24 THE COURT: Mr. Ingoglia.

25 MR. INGOGLIA: I'm going to try to respond to the

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1 points your Honor wants to hear. There are a couple things
2 defense counsel said.

3 THE COURT: I think that level of 25 overstates the
4 seriousness of the offense.

5 MR. INGOGLIA: First I wanted to clarify how that's
6 calculated because it's not simply calculated on the basis of
7 Kareem Serageldin's bonus. Also included in that calculation
8 is the bonus that David Higgs got, his coconspirator, who
9 incidentally is when we're talking about other financial crisis
10 cases that have been charged, there are two of Mr. Serageldin's
11 coconspirators who have been charged in this district.

12 THE COURT: People in his group.

13 MR. INGOGLIA: Yeah, people in his group, Mr. Higgs
14 and Mr. Siddiqui.

15 THE COURT: Who have lesser culpability.

16 MR. INGOGLIA: Correct.

17 THE COURT: One would argue.

18 MR. INGOGLIA: Correct, they're subordinate to him in
19 the hierarchy of Credit Suisse. Mr. Higgs got a bonus of
20 1.6 million. Salmaan Siddiqui got a bonus of 930,000, roughly.
21 And another coconspirator got a bonus of 250,000.

22 Even if you took out Mr. Serageldin's bonus -- and I
23 want to talk about that in a minute; I don't think that's the
24 right way to look at it -- but even if you took out, if you add
25 the bonuses of the coconspirators, you're still over that

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1 2.5 million number. You're in that same guidelines range.

2 THE COURT: This argues that they got their whole
3 bonus because of the overstatement.

4 MR. INGOGLIA: But he argued it with respect to his
5 particular situation because he had --

6 THE COURT: I think it's very complicated.

7 MR. INGOGLIA: But with respect to Higgs it's not.
8 With respect to Salmaan Siddiqui it's not. Their primary
9 responsibilities were this book, this particular book that had
10 the fraud in it. And I think this argument is suggested in the
11 defense submission as well. With respect to Higgs, Higgs'
12 bonus turns on how well that book does. If that book does
13 crappy, he's not getting a big bonus, he just isn't.

14 And Salmaan Siddiqui, same thing. His job is, you
15 know, putting those marks on that book. He doesn't have that
16 vast array of books that Mr. Serageldin had. He didn't have
17 that broad degree of responsibility that Mr. Serageldin had,
18 it's true. But their bonuses are much more tightly tied to
19 that performance in that particular book.

20 It makes sense. You got to start from consider what
21 the options are for trying to come to a fair guidelines
22 calculation here. Nobody is arguing it was the amount of the
23 restatement. Nobody is arguing it was the amount of the
24 overall misstatement in the book, right. Those are giant
25 numbers. Nobody is arguing that.

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1 The compensation, the intended compensation of the
2 group that was involved in the mismarking makes perfect sense
3 as a proxy. And even if you take Kareem Serageldin's bonus
4 out, it's still the same level we've been talking about, still
5 at 25 because you're over 2.5 million.

6 And I submit to you that's a likely reason why, I
7 don't want to speak for the defense, but it makes sense that
8 they would agree to something like that for that reason.

9 THE COURT: It's idle for me to really make a precise
10 finding on how much of the bonus depended on the mismarking of
11 the books and the cooking of the books.

12 MR. INGOGLIA: Can I make one other observation in
13 that regard, if I may, common sense argument, not an I'm privy
14 to secret information argument. If Credit Suisse had known
15 that a crime was happening, that people working for them were
16 committing a crime, at the time they were deciding whether or
17 not to pay a bonus --

18 THE COURT: There would be no bonus at all.

19 MR. INGOGLIA: -- there would be no bonus at all.

20 THE COURT: Let me ask you this. Suppose they had not
21 falsified books, would there have been any bonuses? We don't
22 know, do we?

23 MR. INGOGLIA: I don't think we know to a certainty.
24 I think if there had been no, there had been no mismarking,
25 then I think Mr. Serageldin has a fair argument that some of

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1 his other activities would have gotten him at least some bonus.
2 I don't know if we can know what the amount would have been,
3 but I think it's persuasive he had a lot of responsibility.

4 THE COURT: I can't accept the argument that the
5 entirety of the bonuses depended on the falsified books. I
6 think it was influenced, it was affected, but I can't say it
7 was total. So I come to the conclusion that there's a certain
8 degree of overstatement of points. How much, I don't know.

9 MR. INGOGLIA: I won't belabor it if you've come to
10 that conclusion.

11 THE COURT: Under 5K2.0, I would tend to find that
12 there should be some element of departure. Even though you and
13 defense counsel agreed on the application of the guidelines, I
14 wouldn't go along with you. I don't think it's necessary for
15 me to find exactly how much departure there should be, but I
16 think 57 months is high.

17 What do you think of the probation office
18 recommendation of 36 months?

19 MR. INGOGLIA: We think it's too generous. We
20 think --

21 THE COURT: Why do you think it's too generous?

22 MR. INGOGLIA: Especially because -- and Mr. Casey is
23 right that this is a primary part of our argument -- the need
24 for general deterrence in a case like this is especially
25 important. I think when there's talk, you know, in your

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1 colloquy with defense counsel about why good people do bad
2 things, and it could be intense pressure, it could be hubris,
3 it could be greed, right, there's many things that could
4 motivate people at different times.

5 But the fact that, you know, you keep seeing good
6 people do bad things and that in cases like this people who
7 otherwise seem to live admirable lives do cross the line, that
8 cries out for a strong deterrent message. That's what it cries
9 out for. You need somebody in that situation to say to
10 themselves, wow, it's tempting, it's going to be very hard for
11 people to detect if I mess around with something like this, but
12 it's not worth the risk of going to jail. You need that kind
13 of strong message.

14 THE COURT: A zero sum game doesn't do it.

15 MR. INGOGLIA: Correct.

16 THE COURT: Which is what Mr. Casey is arguing.

17 MR. INGOGLIA: I think that's right. You've got to
18 deter people from crossing that line. And how you're going to
19 do that, it has to be a serious sentence.

20 THE COURT: The judges don't know, nobody knows what
21 level of deterrence you need and what's accomplished by one
22 sentence over another. So we still are in the land of
23 intuition.

24 MR. INGOGLIA: I think that's right, Judge, and I
25 think that it's the burden and challenge of where you're

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1 sitting, right, in setting a sentence. I agree a hundred
2 percent. Finding the right balance is what you've got to do.

3 THE COURT: Another thing that bothers me here, that
4 Credit Suisse created a climate. We learned that there was a
5 hundred billion dollars of overstatement.

6 MR. INGOGLIA: It says more than a hundred, more than
7 a hundred million.

8 THE COURT: Hundred million dollars.

9 MR. INGOGLIA: More than a hundred million.

10 THE COURT: Easy for me to substitute zeroes, take
11 them away and add them on. A hundred million dollars of
12 overstatement.

13 And the share of overstatement in Mr. Serageldin's
14 department was how much?

15 MR. INGOGLIA: I'm sorry, I was answering the second
16 question. They restated by more than a billion dollars, right.

17 THE COURT: The bank misstated for a billion dollars.

18 MR. INGOGLIA: It's actually more than. I can --

19 MR. CASEY: Your Honor, we have the number. The bank
20 restated for over \$2.65 billion.

21 THE COURT: 2.65 billion. And how much --

22 MR. CASEY: The overstatement, the government's
23 position, I believe, is about a hundred million dollars. It
24 may even be slightly more.

25 THE COURT: Say that again.

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1 MR. CASEY: The government's position I think is a
2 hundred million. Our position is that number is also
3 exaggerated.

4 THE COURT: What is the number that you think should
5 be attributed to the inflation of Mr. Serageldin's
6 responsibility?

7 MR. CASEY: A little less than \$40 million, maybe even
8 less than that.

9 THE COURT: What do you say, Mr. Ingoglia?

10 MR. INGOGLIA: More than a hundred million dollars.

11 THE COURT: Let's take a hundred million. So what
12 percent of 2.65 billion?

13 MR. INGOGLIA: A very low percent.

14 THE COURT: Which means that there was either a
15 terrible climate in the bank because people tend to know what
16 other people are doing. And Mr. Serageldin's crime, and it is
17 a crime, was a crime that was duplicated by many others in many
18 other departments. I think that's a fair inference for me to
19 take, and I have to put that into finding the fair sentence
20 also. It doesn't mitigate his crime, but it does mitigate his
21 culpability in a sense.

22 MR. INGOGLIA: I think all I can say to that is we
23 take the facts as we find them. Where we see evidence of a
24 crime, we pursue it and we prove what we can prove.

25 THE COURT: I understand. It's not always easy.

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1 Quite hard. I know because I worked in that area. I know how
2 hard it is to prove that.

3 Thank you, Mr. Ingoglia.

4 Mr. Serageldin, you have a right to --

5 MR. CASEY: Your Honor, before Mr. Serageldin speaks,
6 his mother would like to address the Court very briefly if that
7 would be okay.

8 THE COURT: Okay. Come up, ma'am. Tell your name to
9 the court reporter.

10 MRS. SERAGELDIN: Sarheeldin Serageldin.

11 Thank you very much, your Honor, for allowing me to
12 speak to you today. I'm Kareem's mother.

13 THE COURT: Please speak louder. It's not going to
14 help you much. You need your voice. And I know you're
15 nervous. So just try to relax, speak slowly and loudly.

16 MRS. SERAGELDIN: Thank you very much, your Honor, for
17 allowing me to speak to you today. I'm Kareem's mother and
18 this is, as you must imagine, very difficult because I know I
19 have just this one chance to try to present my son to you the
20 way I know him to be, which is a very kind, loving,
21 responsible, upright, modest young man.

22 And I don't know, I don't understand much about,
23 actually anything about the offense. Obviously, I'm not here
24 to talk about that. But I just would like to speak to your
25 Honor about my son.

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1 I know we raised him to value honor and integrity and
2 he's always held himself up to high standards as far as I know.
3 And we came to this country, my husband and I, immigrated to
4 this country when he was not quite seven years old. He was
5 going on seven. And it was a struggle, as with many immigrant
6 families, especially at the beginning to, you know, to make a
7 living and raise our children.

8 And I think Kareem saw us struggle and he really
9 internalized those values of really hard work and high
10 expectations. And we never once had to ask him to study and he
11 always tried to exceed our expectations for him if he could and
12 he always did, which is why it's so hard to be talking to you
13 about him today because we've always been so proud of him.
14 He's always made us so proud.

15 And it's also so hard to see him suffer and when you
16 see your child suffer, you suffer. And he has been suffering
17 horribly in the five plus years since this ordeal started. He
18 was only 34 and his whole world came to an end. And he's been
19 hounded, hounded from his homes, you know, first one apartment
20 in London, then another one, humiliated and publicly arrested.
21 And when he never tried to, you know, he's always available,
22 but still he was made a public spectacle of. And he's already
23 suffered so very much with the stress of seeing him throwing up
24 time after time. And he tries to hide it as best he can
25 because that's how he is, but he's really suffered horribly and

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1 we all suffer with him.

2 We're a close family and he's the rock of the family.
3 It's his character that he's protective, responsible one. But
4 also partly in Egyptian culture, and we're from Egypt, it's the
5 oldest son who takes the responsibility. And it's not just me
6 and his father and but his whole extended family.

7 When his uncle had a heart attack, he was visiting
8 London and he had a heart attack, it's Kareem who took care of
9 everything and took care of him, nursed him after, took him
10 home and nursed him after. And his uncle said so many times
11 since then while he was being rushed off in the ambulance, at
12 least he knew if anything happened to him, he'd look after his
13 family in Egypt.

14 I'm sorry, your Honor. I'm know I'm rambling.

15 THE COURT: You're not rambling. Take your time and
16 tell me what you want. I know you're speaking from the heart.

17 MRS. SERAGELDIN: I just want to say, your Honor, I
18 wish I could show you the six-year-old he was when we came to
19 the States. And he was small for his age, but he also, we had
20 him skip a grade so he was really tiny for his class and he was
21 teased so horribly and bullied so much.

22 THE COURT: You're speaking to a very short person.

23 MRS. SERAGELDIN: But he stayed that way, your Honor,
24 for the longest time. And, you now, he was really teased and
25 bullied and it wasn't just how tiny he was, but also his thick

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1 glasses and bushy hair and he had all the odd clothes and odd
2 accent. And I think he just felt he always had to work twice
3 as hard as everyone else to be accepted. And he always had to
4 get things exactly right because no one would ever give him any
5 leeway and he just, he's still that way inside, you know, the
6 little boy who always has to get everything right and work
7 twice as hard as everyone else.

8 And I know he probably doesn't want me to say this,
9 but he's very vulnerable inside and tries to hide it. But we
10 know, his family, his close friends, we all know how
11 self-guarded he is and how vulnerable he is and how much he
12 tries to hide it. And we all need him so much. Not just us, I
13 mean his father and I, his brother, but most also Kareem has a
14 woman, they've been together for 14 years. She wouldn't want
15 me -- she'd be lost without him. I know she won't mind my
16 saying that. And they haven't really started their life
17 properly together because everything has been put on hold
18 because this, since this started over five years ago, they
19 can't make plans, they can't. So there's that as well.

20 And most of all, your Honor, if you will just indulge
21 me one last thing, that's my mother who, his nana, my mother.
22 When he was born, we were students at London University, my
23 husband and I, both of us. And we couldn't -- we left him with
24 my mother to raise the first few years of his life in Egypt
25 with my mother and he's been the center of her universe ever

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1 since and they have a very, very close, close bond. And he
2 used to visit her regularly and he hasn't been able to travel
3 to see her in two years. She's 85, she's frail. We can't
4 possibly tell her what's going on because it would be the end
5 of her, quite literally, the end of her physically. She
6 wouldn't survive the shock.

7 So we haven't been able to explain why he no longer
8 comes to see her and it breaks his heart because he knows that
9 she may not be there much longer, you know. And so I know she
10 would be here today if she could and obviously she can't.
11 She's in Cairo and doesn't travel, hasn't for years and we
12 haven't even told her. But I just wanted on her behalf and on
13 behalf of everyone in the family to let your Honor know about
14 her as well.

15 The other thing please, your Honor, keep in mind his
16 whole life history. He was only 34.

17 THE COURT: How life?

18 MRS. SERAGELDIN: His whole life history. He was only
19 34 and all his life he's been so responsible, so hardworking.
20 He started working barely out of college and he was 21 in April
21 the year he graduated college and he started working and worked
22 so hard every day, never, you know, always, always worked so
23 hard and it was never, never for him about, I know that. It
24 was always about winning that respect and approval that he had
25 such a hard time winning when he was a little boy in high

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1 school and so awkward and it's all about winning respect and
2 approval for him. It was never, you know, achievement for him
3 was never anything material. The only thing that might have
4 gratified him was treating friends, family to treats or
5 experiences he thought they might enjoy. But for him it's
6 always been about winning that respect and approval that were
7 so hard, the acceptance that were so hard to come by as he was
8 growing up.

9 So if you would just please see him in context of his
10 whole life history, if you would, your Honor, and keep in mind
11 that as a mother when he suffers, you suffer, and whatever
12 sentence he serves, you serve, and you only breathe free when
13 he does. And also that I know my son. He would never ever
14 conduct himself in a way as to be unworthy of your Honor's
15 generosity should be choose to exercise it. And I'm really
16 sorry. Thank you very much, very much.

17 THE COURT: Thank you very much for your remarks.

18 It's unfortunate that sometimes, most often the most
19 substantial impact of sentencing is not on the defendant
20 himself but on those who love him. I see this so many times.
21 In a way, a defendant comes and he has prepared himself for the
22 worst, but his family never does. And so when I pronounce a
23 sentence, the people who feel it most are those who love the
24 defendant.

25 The other thing I wanted to say is it's my obligation

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1 to take into account all the personal characteristics of the
2 person I'm sentencing. The law requires it and I try to do it
3 as best I can. And I particularly appreciated your remarks
4 because I too am a son of immigrants who came to the United
5 States to find an opportunity that they never would have had
6 had they not immigrated. In fact, they probably would not have
7 been alive today. Today they're not alive, but when they came
8 here.

9 So I understand your remarks and I appreciate them
10 very much.

11 Mr. Serageldin.

12 THE DEFENDANT: Your Honor, today is the most
13 difficult day of my life. I never imagined I would be standing
14 here awaiting sentencing for a crime. Your Honor, I'm sorry
15 for what I have done. My terrible mistakes will remain with me
16 for the rest of my life, mistakes that I'll have to explain
17 shamefully to my Godchildren, as well as the children of my own
18 I hope to have one day. I'm confident that I will never make
19 these mistakes again, and I am certain I will never allow
20 myself to be in a position like this again.

21 Throughout the course of this case, I have tried to
22 conduct myself with dignity to prove to myself and to all those
23 that I've let down that I'm better than my crime. Your Honor,
24 I always believed by working harder than anyone I could succeed
25 at almost anything. That was the case throughout my education,

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1 as well as my time at Credit Suisse. I was proud of the
2 reputation I built at the bank. Your Honor, I loved my job.
3 My terrible mistakes have caused me to lose my job, my career,
4 my reputation, and caused great dishonor to myself, but more
5 importantly, to my family and friends.

6 When I became aware of the conduct that brought me
7 here, the right thing to do would have been to stop, correct
8 and address the misconduct. I recognize that this was a
9 crucial moment of my life and I see that I failed miserably in
10 the decisions I made at this time. What is most painful to me
11 is the knowledge that my actions have hurt and humiliated those
12 that I love and care about the most, my family, my Godchildren,
13 my friends, as well as colleagues, all of whom put their trust
14 and confidence in me. I deeply apologize to them for the pain
15 that I've caused them, and I thank them for their unconditional
16 support over the course of the five plus years of this
17 investigation.

18 In many ways, I do not deserve all of the support that
19 I've received. It only adds to the shame and guilt I feel for
20 having betrayed the trust and confidence they had in me. I
21 made commitments in life to support family and friends. I have
22 always upheld those commitments until now. It is therefore
23 exceedingly difficult to imagine that going forward I may not
24 be in a position to do so.

25 Many people rely on me, your Honor, which is what

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1 makes this so very hard. This is particularly true of my
2 grandmother, who's too old and frail for me to explain to her
3 why I can't probably ever be by her side again in Cairo.

4 I stand before you, your Honor, to accept whatever
5 punishment you deem appropriate. I wish to have the
6 opportunity to pay my debt to society and then to move forward
7 and rebuild my life. I would only add that I pledge to prove
8 worthy of your Honor's clemency should you grant it. I will
9 not let you down.

10 Thank you, your Honor, for permitting me to address
11 the Court today.

12 THE COURT: Thank you, Mr. Serageldin.

13 Any district judge would be quick to say that the most
14 difficult job of being a United States district judge is the
15 job of sentencing human beings. We have the power to take away
16 freedom from people. It's an awesome power. And for me, I
17 never feel I get it right. You've already heard some of the
18 comments I made as I tested both sides in the views they bring
19 here.

20 There are so many different considerations the judge
21 has to follow and they don't mesh. One stands in opposition to
22 another. And there is no scientific way of putting it all
23 together in coming to a conclusion that's satisfactory, not to
24 the defendant, not to the government, and not to the judge
25 himself for, as I say, I never have confidence that I have

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1 gotten it right. All that I can do is do the best I can to
2 harmonize all the considerations that come to play.

3 So Section 3553(a) of the criminal code tells the
4 judge what considerations the judge should consider in
5 sentencing a person. The judge is required to understand the
6 nature and circumstances of the offense, and many of my
7 questions have been probing of that nature and the aspect of
8 the offense, which was the intended loss or the foreseeable
9 loss to the employer.

10 I also have to understand the history and
11 characteristics of the defendant. Your mother was eloquent in
12 pleading your case. You could not have done what she's done or
13 said what she has said. She spoke from the heart and it
14 penetrated.

15 But that is not enough because I also need to consider
16 a sentence that reflects the seriousness of the offense. And
17 Mr. Ingoglia talked about the need of imparting a sentence that
18 will be taken as serious in the community of those who have to
19 work in the fields where you worked.

20 The sentence has to promote a respect for law and to
21 provide just punishment for the offense. Respect for law is
22 crucial. People can't feel that there's one law for the person
23 who committed a misbranding of drugs, who I sentenced before I
24 reached you this morning, and for a person who works and lives
25 at the highest echelon of our society. It's one law and one

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1 law that must be just for everyone.

2 And it's so hard, so hard to make comparisons to what
3 one judge did for one person and what I must do for another
4 person or in what way I sentence one particular person and then
5 have to sentence another person. Everyone is different. It
6 used to be that we would have the comfort of adding up the
7 score in the sentencing guidelines and sentencing so that
8 everyone thought there was equality, but there never was
9 equality. There always were hidden considerations that either
10 were or were not taken into consideration.

11 And so we've abandoned the sentencing guidelines as a
12 rigid code. We are to consider them, among other things, but
13 the judge is left on his own to find what is just, what is
14 fair, what is appropriate.

15 I'm instructed to sentence in a way to afford adequate
16 deterrence to criminal conduct. It's so important deterring
17 not only the defendant himself, which I'm convinced you will
18 not commit another crime and that any time you have a choice to
19 make, you will choose very carefully in relationship to what is
20 right and what is good and not been done those ideals. But
21 others have to be influenced as well, and it's another aspect
22 of how the community has to respect law and understand the
23 seriousness of the crime that was committed.

24 I'm told I have to protect the public from further
25 crimes of the defendant, which is not an issue with you, I am

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1 sure, but it is an issue with others.

2 And I'm supposed to provide you with needed
3 educational or vocational training, medical care, or other
4 correctional treatment in the most effective manner, and I
5 don't think these really apply to your case.

6 In all of this, I'm to impose a sentence that is
7 sufficient but not greater than necessary to comply with all
8 these considerations. If one were to devise a set of criteria
9 that will be more apt to cause consternation on the part of
10 anyone having to apply them, it couldn't be other than these
11 characteristics. Yet this is how I have to live, and this is
12 how I have to conduct my sentences, to do what ultimately has
13 to be fair and just.

14 And so I have to consider that you were in a position
15 of trust and responsibility. In a financial world that was
16 rather berserk at the time, each person has to look within
17 himself and ask himself what is right, what is wrong, how do I
18 adhere to the right and not do the wrong. Inflation of books
19 is a wrong. Everyone working in the financial area knows that.
20 Everyone in the financial area knows also the subjectivity of
21 judgments, especially in an area where there is not an adequate
22 market index.

23 And yet in all that with all the complexity, with all
24 the difficulty, with all the tension and responsibility that
25 comes into play, one must never forget to ask the question what

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1 am I compelled to do if I adhere to the right and in that you
2 failed. And I understand this has been a five-year ordeal for
3 you and that this ordeal has reaped its own sense of punishment
4 for you. You had to stand still. You have not been able to
5 correct the past and go forward and I take this into
6 consideration as well.

7 I take into consideration that the guidelines in terms
8 of how it's driven by the amount of the loss is a very
9 substantial overstatement, but yet your crime is a serious one.
10 It has to teach people that in the worst of times what is right
11 can not be sacrificed. We may not have gone through the worst
12 of times. We did not get into a depression. People did not
13 lose a whole society of economic structure. Many lost their
14 jobs, many lost their ability to earn a good living, but
15 somehow we passed it. But you failed in doing what was right.
16 For this I have to punish you.

17 I'll ask you to stand, Mr. Serageldin, while I deliver
18 what I think is a fair and just punishment.

19 I sentence you to 30 months in custody. It's
20 substantially less than the guideline range of 57 months, which
21 I believe is an overstated amount. It's even less than
22 probation has suggested. But I've taken into consideration
23 what your mother has said, what your lawyers have said about
24 you and all that you bring to the table. I'm convinced that
25 perhaps by showing you a little more lenity than otherwise

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1 might be available, but also sufficient severity to make it
2 clear that this is a serious offense, that I have done as best
3 I can to apply all the intentions of the guideline and
4 characteristics that apply.

5 Is there a recommendation where Mr. Serageldin should
6 serve?

7 MR. CASEY: Your Honor, we have an idea, but if
8 possible, we'd like to submit it in writing to you maybe
9 Monday.

10 THE COURT: Yes.

11 MR. CASEY: Okay. Thank you, your Honor.

12 THE COURT: A writing about where I should recommend?

13 MR. CASEY: That's correct, your Honor.

14 THE COURT: Okay. So we'll defer the judgment until
15 we receive that and I'll undoubtedly make the recommendation as
16 suggested.

17 MR. CASEY: Thank you.

18 THE COURT: I'll talk about supervised release in a
19 few minutes.

20 There is a forfeiture in this case, is there not?

21 MR. INGOGLIA: There's an agreed to amount, yes,
22 Judge.

23 THE COURT: And you'll submit a judgment?

24 MR. INGOGLIA: We will. We'll submit, if your Honor
25 is okay with it, next week. We'll submit a preliminary, on

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1 consent by the parties, a preliminary order of forfeiture.

2 THE COURT: And it will be in the amount
3 \$1,003,368.61?

4 MR. INGOGLIA: That's correct.

5 THE COURT: In terms of restitution, is there any --
6 you can sit down for a few minutes, Mr. Serageldin.

7 THE DEFENDANT: Thank you.

8 THE COURT: Is there any suggestion about restitution?

9 MR. INGOGLIA: It's discretionary, we believe, in this
10 case. So it is up to your Honor.

11 THE COURT: Well, it's discretionary in what sense?
12 It's mandatory, isn't it?

13 MR. INGOGLIA: The statute to which the defendant pled
14 is not included among the mandatory restitution list of
15 enumerated statutes. So the issue of restitution is entirely
16 within your discretion, whether to order it or not and also to
17 what extent.

18 THE COURT: Do you have a suggestion how I should
19 exercise my discretion?

20 MR. INGOGLIA: I don't, Judge. I think we should
21 leave it to your recommendation.

22 THE COURT: Is there any representative of Credit
23 Suisse here?

24 I believe that restitution is not appropriate. I
25 think the bank, having created a climate in which

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1 Mr. Serageldin has operated and not having shown to what
2 extent, if at all, the bonuses paid to him would not otherwise
3 have been paid, is not entitled to restitution. If it is
4 entitled to restitution, it feels that way, it can bring a
5 separate action. But I do not order restitution in this action
6 without prejudice to whatever may be determined in some other
7 lawsuit.

8 I think a fine would be appropriate. Does the
9 government have a suggestion?

10 MR. INGOGLIA: We're not recommending any specific
11 amount, Judge. We would leave it to you. The range as you
12 pointed out is the guidelines.

13 THE COURT: Tell me about the forfeiture, is it an
14 amount that was found?

15 MR. INGOGLIA: The amount of the forfeiture is
16 calculated by taking the amount of the bonus, which was
17 1.7 million, and essentially -- let me start over. The 1.7 was
18 the amount of the bonus. He actually received the amount of
19 the forfeiture, \$1,003,368.61, because that is what the amount
20 was actually paid after taxes.

21 THE COURT: So, in other words, it's in a sense what
22 he got from.

23 MR. INGOGLIA: It's the bonus.

24 THE COURT: Okay. I think a fine in addition would be
25 appropriate. The guidelines provide a fine of \$10,000 to a

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1 hundred thousand dollars. I'm going to impose a fine of
2 \$150,000.

3 When can it be paid?

4 MR. CASEY: Within 30 days, your Honor.

5 THE COURT: Paid let's say by January 15.

6 MR. CASEY: Thank you, your Honor.

7 THE COURT: 2014.

8 Supervised release will be for two years, subject to
9 the following conditions: those set out at the top of page 3
10 under the caption in the PSIR mandatory conditions, plus the 13
11 standard conditions.

12 I decline to impose the financial conditions in the
13 third, fourth, third and fourth paragraphs under standard and
14 special conditions on page 29.

15 And impose the condition of obeying the immigration
16 laws and complying with the directives of immigration
17 authorities.

18 Mr. Serageldin will be supervised by the district of
19 his residence and is to report to the nearest probation office
20 within 72 hours following release from custody.

21 The mandatory special assessment of \$100 will be due
22 upon the filing of the judgment.

23 I want to impose an obligation of community service
24 for the two years of supervised release at the rate of 25 hours
25 per quarter, 25 hours per quarter for each of the two years.

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1 Mr. Serageldin and his lawyers will suggest a type of community
2 service to the probation officer, and it shall be subject to
3 the approval of the probation officer.

4 When would Mr. Serageldin like to surrender?

5 MR. CASEY: The end of January, your Honor, if that's
6 possible.

7 THE COURT: Yes.

8 THE DEPUTY CLERK: January 28 --

9 MR. CASEY: Thank you.

10 THE COURT: -- 2014, at 2 p.m., at the facility
11 identified by the Bureau of Prisons.

12 MR. CASEY: Thank you, your Honor.

13 THE COURT: Except for advice on appeal and underlying
14 counts, is there anything I missed, Mr. Ingoglia?

15 MR. INGOGLIA: No, Judge.

16 THE COURT: Any suggestions, objections?

17 MR. INGOGLIA: None.

18 THE COURT: Objections by the defense?

19 MR. CASEY: Nothing, your Honor. Thank you.

20 THE COURT: So all the punishment is so ordered.

21 I advise you, Mr. Serageldin, that you have a right to
22 appeal. You should discuss with counsel whether or not you
23 wish to appeal. If Mr. Serageldin wishes to appeal, I instruct
24 counsel to do so on a timely basis. Counsel will review the
25 plea agreement to see if appeal is waived. In any event, it's

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1 Mr. Serageldin's choice.

2 If you can't afford a lawyer, Mr. Serageldin, you have
3 a right for counsel at every stage of the proceeding and the
4 government will pay for a lawyer and it will be assigned under
5 the Criminal Justice Act.

6 Underlying Counts Two and Three.

7 MR. INGOGLIA: Counts Two and Three the government
8 moves to dismiss.

9 THE COURT: Without objection so ordered.

10 I think we're concluded. Anything further?

11 MR. INGOGLIA: Nothing further from the government.

12 THE COURT: So, Mr. Serageldin, this in a way closes a
13 chapter in your life, opens another chapter, which will be
14 difficult, but it's something you can accomplish. You can find
15 good in any place if you look for it and pursue it. And
16 thereafter, you're a young man and your life remains an open
17 book. I'm sure you will learn from it and be a better person
18 for it. People love you. And I wish you the best.

19 THE DEFENDANT: Thank you, your Honor.

20 o0o